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LETTER DATED 27 DECEMBER 1995 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

With respect to the report of the Secretary-General on the situation of human rights in Croatia pursuant to Security Council resolution 1019 (1995) (S/1995/1051), I have the honour, upon instructions from my Government, to state the following.

Croatia finds the report incorrect to the point of bias, unnecessary and extremely unproductive. The report does not contain relevant information requested by paragraph 12 of Security Council resolution 1019 (1995), but merely recycles the material previously submitted in various other reports (e.g. A/50/648, S/1995/730, S/1995/835, S/1995/933, S/1995/987), which has already been the subject of previous action by the Security Council and the General Assembly. Through this report, the Secretary-General is acting outside the mandate given to him by the Council by resolutions 1009 (1995) and 1019 (1995). An analysis of some specific parts of the report is enclosed herewith.

The report (S/1995/1051), and the hastily adopted presidential statement (S/PRST/1995/63), have created the wrongful impression of serious problems and tensions inside Croatia. Consequently, this could affect the ongoing peace process, including the implementation of the Basic Agreement aimed at the peaceful reintegration of the former Sector East with the rest of the Republic of Croatia. After reading the report, some Member States could reach an entirely wrong perception of the actual situation in Croatia, thus becoming reluctant to contribute troops for the forthcoming implementation of the Basic Agreement. My Government is obliged to draw your attention to the fact that any serious delay in the deployment of the new peace-keeping force in Croatia would put into jeopardy the stability of the wider region and seriously undermine the ongoing peace process not only in Croatia but also in neighbouring Bosnia and Herzegovina.

Most of the requests placed before the Government of Croatia by Security Council resolutions 1009 (1995) and 1019 (1995) have been fulfilled; the implementation of the remainder is linked with the circumstances prevailing in

the wider region and the state of the peace process in general. My Government is committed to their full implementation. For your reference, enclosed please find the analysis of the requirements of the respective resolutions.

One of the requests in particular - the expiration of the deadline for Serbs that have abandoned their property and have left the country to reclaim their ownership - had been heeded today at the session of the Government. Consequently, I have the honour to submit, enclosed herewith, a statement of the Ministry of Foreign Affairs. The Government has suspended the expiration of the said deadline and will propose to the Parliament (Sabor) of Croatia urgently to amend the law on the temporary takeover and administration of specific property as to extend the said deadline sine die.

Croatia remains committed to the peaceful reintegration of its remaining occupied territories. My Government works determinedly on confidence-building measures, and is pursuing the path of normalization of relations with the "Federal Republic of Yugoslavia (Serbia and Montenegro)". Croatia would like to see rapid and determined Council action with regard to the implementation of the Basic Agreement. Implementation Fora (IFOR) action in Bosnia and Herzegovina is progressing successfully and without delay. It would be harmful to allow the action in Croatia to fall so much behind in terms of time and effectiveness.

I would kindly request your assistance in distributing this letter and its annexes as a document of the Security Council.

(Signed) Mario NOBILO
Permanent Representative

Annex I

Analysis of some issues from the Secretary-General's report on the situation of human rights in Croatia pursuant to Security Council resolution 1019 (1995)

1. Title: The title is erroneous. Resolution 1019 (1995) does not mandate the Secretary-General to report on the situation of human rights in Croatia, only to "continue to inform the Council on a regular basis of measures taken by the Government of ... Croatia to implement resolution 1009 (1995) and [1019 (1995)]".

2. Paragraph 2: The Secretary-General refers to an Assembly document (A/50/648), which is not relevant for considerations of the Security Council.

3. Paragraph 2, in fine: "Reports of such violations continue to be received up to the present time". The report does not give any credible data on this fact, nor cite any specific cases, only "estimates", "indications", "should be noted", "it appears", "numerous cases".

4. Paragraph 4: "As accounts of human rights abuses persisted, Croatian authorities conceded that violations had occurred, but blamed 'rogue elements' that the military and police were allegedly unable to control". See A/50/648, paragraph 34 - identical.

5. Paragraph 5: "The High Commissioner for Human Rights conveyed his concern about the reported human rights violations to the President of the Republic of Croatia in letters dated ...". See A/50/648, paragraph 28 - identical.

6. Paragraph 9: "bodies of more than 150 people ... suspicious deaths to more than 230 ...". The access of monitors has been granted. Did they see 150 or 160 or 1,000 bodies? They should have given a precise number.

7. Paragraph 14: "It is not possible to provide the exact number of houses destroyed by fire in former Sectors North and South, although the estimated total is in excess of 5,000". See S/1995/933, paragraph 27 - identical; and A/50/648, paragraph 33 - strikingly similar.

8. Paragraph 16: "In innumerable cases observed first hand by United Nations and other international personnel, Croatian soldiers and civilian police were in close proximity to burning buildings and did not appear to be attempting to extinguish the fires and, in some cases, even appeared to have set them". See S/1995/933, paragraph 27 - identical; and S/1995/730, paragraph 17 - strikingly similar.

9. Paragraphs 17-20: Repetitive, extensively covered in S/1995/933, paragraphs 26-33.

10. Paragraph 25: "On 25 August, a human rights action team found virtually the entire village of Grubori in Sector South ablaze". See S/1995/933, annex, paragraph 33 (1) - follow-up on long-past events.

11. Paragraph 28: "As many as 200,000 people, more than 90 per cent of the Serb population, are estimated to have fled former Sectors North and South following the recent Croatian offensive". See A/50/648, paragraph 13; and S/1995/730, paragraph 11. Numbers are imprecise; after four years of presence in the occupied territories the United Nations is not in a position to confirm anything, only "estimate".

12. Paragraph 30: "On 13 November, it was reported that two elderly Serbs in former Sector North had died after being denied adequate medical treatment by local medical facilities". Please note that this is the only date in the report that reports on an event that is within the time-limited mandate of the Secretary-General to report after the adoption of resolution 1019 (1995) (9 November); all the other events mentioned in the report deal with events of August or early September.

13. Paragraph 35: "The recent law on 'the temporary takeover and administration of specific property'". See A/50/648, paragraphs 36 and 37 - identical; and S/1995/933, paragraph 38.

14. Section V, paragraphs 38 and 39: "Constitutional rights of the remaining Serb population" - the 9,000 Serbs enumerated are not the "remaining Serb population", the Serbs in Croatia who live outside this region enjoy the same rights as they had before; special status has been suspended (not terminated) owing to the fact that Serbs do not constitute a distinct majority in one part of Croatia; Serbs in Croatia have participated in recent elections, and have elected their special minority members of Parliament guaranteed by the Constitution.

Section X. Observations: Of seven points, all are negative, notwithstanding the fact that the report itself mentions certain positive actions by the Croatian Government. The observation (para. 54) is made that "human rights violations in former Sectors North and South continue to be reported to the present day, albeit on a reduced scale", but the report does not provide any credible evidence that any of the alleged violations are still going on.

Three of the observations (paras. 55, 58 and 59) deal with issues outside the mandate given by Security Council resolutions 1009 (1995) and 1019 (1995).

The report basically repeats allegations made in previous reports, sometimes in copycat manner. All of them are reports on human rights issues, which do not fall under the jurisdiction of the Security Council as mandated by the Charter. It is clear that the Croatian Government is acting bona fides in implementing resolutions 1009 (1995) and 1019 (1995) on which the Secretary-General was mandated to report by the Council.

The Croatian Government is the only Government in the region that has allowed full and unimpeded access by the international community for investigation of all alleged abuses. Without the full cooperation of Croatia, none of these would be possible.

Further, there is a clear lack of accuracy of various claims made in the report.

Annex II

Requirements of Security Council resolutions 1009 (1995) and 1019 (1995) with regard to the Government of Croatia

Security Council resolution 1009 (1995) (10 August)

Paragraph 1: "cease all military actions"

Yes

Paragraph 2 (a): "respects fully the rights of the local Serb population, including their right to remain [yes], leave [yes], or return in safety" [yes, but the proper conditions do not yet exist]

Paragraph 2 (b): "allow access to this population by international humanitarian organizations"

Yes

Paragraph 2 (c): "create conditions conducive to the return of those persons who have left their homes"

Under way

Paragraph 3: "responsibility [of Croatia] to allow access for representatives of ICRC to members of the local Serb forces who are detained by the Croatian government forces"

Yes

Paragraph 6: "fully respect the status of United Nations personnel, refrain from any attacks against them, bring to justice those responsible for any such attacks, and ensure the safety and freedom of movement of United Nations personnel at all times"

Yes

Paragraph 7: "exercise maximum restraint in and around Sector East"

Yes

Paragraph 9: "to resume talks under the auspices of the Co-Chairman"

Yes

Security Council resolution 1019 (1995) (9 November)

Paragraph 1: "comply fully with ... obligations [deriving from] international humanitarian law and ... human rights"

Under way

Paragraph 6: "take urgent measures to put an end to violations of international humanitarian law and of human rights"

Yes

Paragraph 6: "investigate all reports of such violations so that those responsible in respect of such acts be judged and punished"

Under way

Paragraph 7: "respect fully the rights of the local Serb population including their right to remain [yes] or return in safety [not yet]"

Paragraph 7: "lift any time-limits placed on the return of refugees to Croatia to reclaim their property"

Yes

Paragraph 8: "comply fully and in good faith with the obligations contained in paragraph 4 of resolution 827 (1993)"

Yes, but the proper conditions do not yet exist

Paragraph 9: "refrain from any action intended to destroy, alter, conceal or damage any evidence of violations of international humanitarian law and ... preserve such evidence"

Yes

Paragraph 10: "fully ensure the safety [of United Nations peace forces] and cooperate fully with them"

Yes

Annex III

Statement issued by the Ministry of Foreign Affairs of Croatia on 27 December 1995

In response to the requests by departed Croatian citizens of Serbian nationality to be allowed to return and take over their property in the Republic of Croatia, the Croatian Government will propose to the Parliament, at its session due to commence on 15 January 1996, to apply the urgent procedure in amending the law on the temporary takeover and administration of specific property. The proposed changes will include the deletion of the provisions setting the deadline for their return to the Republic of Croatia and taking over the property for direct use.

The rest of the issues concerning the abandoned property of the departed Croatian citizens will be settled through a special agreement between the Republic of Croatia and the Federal Republic of Yugoslavia within the overall normalization of Croato-Serbian relations or through a special law.